# BEFORE THE APPEALS BOARD FOR THE KANSAS DIVISION OF WORKERS COMPENSATION

LORENE W. GILLHAM	)	
Claimant	)	
VS.	)	
	) Docket No. 234,37	79
UNITED PARCEL SERVICE	)	
Respondent	)	
AND	)	
	)	
LIBERTY MUTUAL INSURANCE COMPANY	)	
Insurance Carrier	)	

#### ORDER

Respondent and its insurance carrier appeal from an Award entered by Administrative Law Judge Robert H. Foerschler on June 30, 1999.

### **A**PPEARANCES

Keith L. Mark of Mission, Kansas, appeared on behalf of claimant. John M. Graham, Jr., of Overland Park, Kansas, appeared on behalf of respondent and its insurance carrier.

# RECORD AND STIPULATIONS

The Appeals Board has considered the record and adopted the stipulations listed in the Award.

#### ISSUES

The Award grants disability benefits for a 19 percent scheduled injury to the left leg. The disability is based on the functional impairment rating by Dr. P. Brent Koprivica. On appeal, respondent contends the disability should be based on the 0 percent impairment opinion given by Dr. Marc K. Hutchison.

The nature and extent of claimant's disability is the only issue raised for the Board's review.

# FINDINGS OF FACT AND CONCLUSIONS OF LAW

IT IS SO ORDERED.

After reviewing the record and considering the arguments, the Appeals Board concludes the Award should be affirmed.

The Board agrees with and adopts as its own the findings and conclusions stated by the ALJ in his Award. Dr. Hutchison's 0 percent rating is not credible in light of the recommendation for knee surgery by Dr. Phillips, a board certified orthopedic surgeon. Furthermore, the 19 percent rating by Dr. Koprivica is more consistent with the claimant's complaints at the regular hearing. The Board affirms the finding of 19 percent disability to the leg.

#### AWARD

**WHEREFORE**, it is the finding, decision, and order of the Appeals Board that the Award entered by Administrative Law Judge Robert H. Foerschler dated June 30, 1999, should be, and is hereby, affirmed.

Dated this day of Nov	vember 1999.
	BOARD MEMBER
	BOARD MEMBER
	BOARD MEMBER

c: Keith L. Mark, Mission, KS
John M. Graham, Jr., Overland Park, KS
Robert H. Foerschler, Administrative Law Judge
Philip S. Harness, Director